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| LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201 | | | EXAMINER CAMPBELL, JOSHUA D | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/719,528

Applicant(s)

CELIK, TANTEK

Examiner

Joshua D. Campbell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-12,15-24 and 53-63 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-12,15-24 and 53-63 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

1. This action is responsive to communications: Request for Continued Examination filed on 10/26/2007.
2. Claims 1, 3-12, 15-24, and 53-63 are pending in the case. Claims 1, 24, 53, 55, and 57 are independent claims. Claims 1, 12, 15, 16, and 19 have been amended. Claims 2, 13, and 14 have been cancelled.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 20 and 21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. These claims are non-statutory for at least the reason that they are not tangibly embodied in a manner so as to be executable (i.e. stored on a computer readable storage medium which does not include a carrier wave or other form of transmission medium). The examiner recommends, "A computer-readable storage medium comprising a browser application (for claims 20, rendering engine for claim 21)..." in order to overcome this rejection. Proper correction is required.

Claims 53-56 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. These claims are non-statutory for at least the reason that they are not tangibly embodied in a manner so as to be executable (i.e. stored on a computer readable storage medium which does not include a carrier wave

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or other form of transmission medium) because as the claims are written the system may exist as merely a software system. The examiner recommends, "A system including a processor and memory comprising..." in order to overcome this rejection. Proper correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1, 3-12, and 15-23 and 53-63 remain rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The term "focusable" is not clearly defined by the specification and is not a term that is well-known in the art. The examiner has attempted to ascertain a specific definition for the term but has been unsuccessful. This term does not appear in a dictionary and is never clearly defined to a specific meaning in the applicant's specification. Thus, the claims that contain limitations that require a proper definition of this term are not enabled. Proper correction is required.
- For the purposes of furthering prosecution the examiner will take the meaning of the word "focusable" to be both viewable and selectable based on the previously cited definitions cited by the examiner.

6. Claims 1, 3-12, and 15-23 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 1 contains the phrases, "...capable of being an element of focus, and is therefore, a focusable element;" and "...not capable of being an element of focus, and is therefore, not a focusable element;" in an attempt to provide definition to the otherwise undefined term "focusable". These phrases are considered to be new matter due to the use of the word "capable". The definition of the term capable is having the ability or capacity for something, open to the influence or effect of something. The claim states that the second element is "not capable" of being an element of focus, but later states that the second element may become focusable based on a user accessibility command, thus showing that the second element was indeed capable of being an element of focus at some point. The terminology "not capable" is improperly used in the limitations of this claim due to the fact that capability does in fact exist. In the instant case, it is considered to be new matter due to the fact that the specification provides no support for forcing an element which is "not capable" of being of focus to actually be of focus due to the fact that by definition the an element that is "not capable" of being of focus does not possess the ability to be of focus. The examiner suggests changing the language to "...first element is by default selectable for focus, and is therefore, a focusable element;" and "...second

element is by default not selectable for focus, and is therefore, not a focusable element.” The examiner strongly suggests that future amendments contain language found with the specification and to avoid further rejections due to enablement and/or new matter, it is suggested that the applicant provide the specific location within the specification from which the amendment was drawn. Proper correction is required.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1, 3-12, and 15-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 contains the phrases, “...capable of being an element of focus, and is therefore, a focusable element;” and “...not capable of being an element of focus, and is therefore, not a focusable element;” in an attempt to provide definition to the otherwise undefined term “focusable”. These phrases are indefinite due to the use of the word “capable”. The definition of the term capable is having the ability or capacity for something, open to the influence or effect of something. The claim states that the second element is “not capable” of being an element of focus, but later states that the second element may become focusable based on a user accessibility command, thus showing that the second element was indeed capable of being an element of focus at some point. The terminology “not capable” is improperly used in the limitations of this claim due to the fact that capability does in fact exist. Proper correction is required.

Allowable Subject Matter

9. Claims 1, 3-12, and 15- 23 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, set forth in this Office action, and claims 20 and 21 were rewritten to overcome the rejection under 35 U.S.C. 101, set forth in this Office action.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 24, 53-55, 57, 58, 62, and 63 remain rejected under 35 U.S.C. 102(b) as being anticipated by Dutta et al. (hereinafter Dutta, US Patent Application Publication Number 2002/0152283, published October 17, 2002).

Regarding independent claim 24, Dutta discloses receiving a document to be rendered that includes two elements, both elements having standard content which may be selected and both elements being able to have alternate content (page 1, paragraphs 0005-0008, page 3, paragraphs 0038-0049, and page 4, paragraphs 0050-0053 of Dutta). If no accessibility mode is set when the document is rendered to the display device the standard content of all elements is rendered (page 1, paragraphs 0005-0008, page 3, paragraphs 0038-0049, and page 4, paragraphs 0050-0053 of Dutta). If an accessibility mode is activated the alternate content of at least one element

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is rendered (page 1, paragraph 0008, page 3, paragraphs 0038-0049, and page 4, paragraphs 0050-0053 of Dutta).

Regarding independent claim 53, Dutta discloses receiving a document to be rendered that includes two elements, both elements having standard content which may be selected and both elements being able to have alternate content (page 1, paragraph 0008, page 3, paragraphs 0038-0049, and page 4, paragraphs 0050-0053 of Dutta). If no accessibility mode is set when the document is rendered to the display device the standard content of all elements is rendered (page 1, paragraph 0008, page 3, paragraphs 0038-0049, and page 4, paragraphs 0050-0053 of Dutta). If an accessibility mode is activated the alternate content of at least one element can be rendered (page 1, paragraph 0008, page 3, paragraphs 0038-0049, and page 4, paragraphs 0050-0053 of Dutta).

Regarding dependent claim 54, Dutta discloses receiving a document to be rendered that includes two elements which may both have alternate content in which the first element is focusable (interactive element – movie, hyperlink, etc. while the second element is not focusable (non-interactive element – image, text, etc.) (page 1, paragraphs 0005-0008, page 3, paragraphs 0038-0049, and page 4, paragraphs 0050-0053 of Dutta). The document is rendered with the standard content of both the first and second elements and only the elements which are interactive are currently focusable (page 1, paragraphs 0005-0008, page 3, paragraphs 0038-0049, and page 4, paragraphs 0050-0053 of Dutta). When an indication of the viewer's intent to activate and accessibility mode (loading the browser add-on) is received the list of focusable

elements is altered to include the second element (non-interactive element which includes alternate content) (page 1, paragraphs 0005-0008, page 3, paragraphs 0038-0049, and page 4, paragraphs 0050-0053 of Dutta).

Regarding independent claim 55, Dutta discloses receiving a document to be rendered that includes two elements which may both have alternate content in which the first element is focusable (interactive element – movie, hyperlink, etc. while the second element is not focusable (non-interactive element – image, text, etc.) (page 1, paragraphs 0005-0008, page 3, paragraphs 0038-0049, and page 4, paragraphs 0050-0053 of Dutta). The document is rendered with the standard content of both the first and second elements and only the elements which are interactive are currently focusable (page 1, paragraphs 0005-0008, page 3, paragraphs 0038-0049, and page 4, paragraphs 0050-0053 of Dutta). When an indication of the viewer's intent to activate and accessibility mode (loading the browser add-on) is received the list of focusable elements is altered to include the second element (non-interactive element which includes alternate content) (page 1, paragraphs 0005-0008, page 3, paragraphs 0038-0049, and page 4, paragraphs 0050-0053 of Dutta).

Regarding independent claim 57, Dutta discloses receiving a document to be rendered that includes two elements which may both have alternate content in which the first element is focusable (interactive element – movie, hyperlink, etc. while the second element is not focusable (non-interactive element – image, text, etc.) (page 1, paragraphs 0005-0008, page 3, paragraphs 0038-0049, and page 4, paragraphs 0050-0053 of Dutta). The document is rendered with the standard content of both the first

and second elements and only the elements which are interactive are currently focusable (page 1, paragraphs 0005-0008, page 3, paragraphs 0038-0049, and page 4, paragraphs 0050-0053 of Dutta). When an indication of the viewer's intent to activate and accessibility mode (loading the browser add-on) is received the list of focusable elements is altered to include the second element (non-interactive element which includes alternate content) (page 1, paragraphs 0005-0008, page 3, paragraphs 0038-0049, and page 4, paragraphs 0050-0053 of Dutta).

If no accessibility mode is set when the document is rendered to the display device the standard content of all elements is rendered (page 1, paragraph 0008, page 3, paragraphs 0038-0049, and page 4, paragraphs 0050-0053 of Dutta). If an accessibility mode is activated the alternate content of at least one element is rendered (page 1, paragraph 0008, page 3, paragraphs 0038-0049, and page 4, paragraphs 0050-0053 of Dutta).

Regarding dependent claim 58, Dutta discloses that the alternate content of an element is rendered when selected, and that an indication of selection is shown (page 1, paragraph 0008, page 3, paragraphs 0038-0049, and page 4, paragraphs 0050-0053 of Dutta).

Regarding dependent claims 62 and 63, Dutta discloses that the alternate content of an element is rendered when selected and the standard content of the element may be rendered again when the alternate content is deselected, and that an indication of selection is shown (page 1, paragraph 0008, page 3, paragraphs 0038-0049, and page 4, paragraphs 0050-0053 of Dutta).

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 59-61 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Dutta et al. (hereinafter Dutta, US Patent Application Publication Number 2002/0152283, published October 17, 2002) in view of Microsoft Computer Dictionary (hereinafter MCD, Published in 2002, fifth edition).

Regarding dependent claims 59-61, Dutta does not explicitly disclose encircling items currently selected and not selected in different styles and colors. However, MCD shows that highlighting items is a well-known way to provide emphasis on items as a form of indication (page 253 "highlight"). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have combined the teachings of Dutta with the well-known method of highlighting as another way to indicate selection emphasis because it would provided a visual indication of which items are selected and which are not.

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14. Claim 56 remains rejected under 35 U.S.C. 103(a) as being unpatentable over Dutta et al. (hereinafter Dutta, US Patent Application Publication Number 2002/0152283, published October 17, 2002) in view of Jacobs et al. (hereinafter Jacobs, US Patent Number 6,819,961, filed on December 12, 2002).

Regarding dependent claim 56, Dutta does not explicitly disclose indicating the current mode status using an icon. However, Jacobs discloses that an icon can be used as a way to indicate the current operating modes being used (column 7, lines 37-48 of Jacobs). It would have been obvious to one of ordinary skill in the art to have combined the methods of Dutta and Jacobs because it would have allowed the user a constant visual indication of operating mode.

Response to Arguments

15. Applicant's arguments filed 10/26/2007 have been fully considered but they are not persuasive.

Regarding the applicant's arguments on pages 17-18, in reference to whether or not the term focusable is well-known in the art, the examiner maintains that the term is not properly defined by the specification, and evidence of the existence of the term "focus" in a document for a single program is not enough to prove that the specification is exclusively enabled for that definition. The term "focus" is not an exclusively defined term in the art, thus the examiner's broad interpretation of the term shall remain in effect for the purposes of examination until the proper corrections are made. Furthermore, the term "focusable" is the term that is currently in question, and, contradictory to what the

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arguments state the term "focusable" is not found at any time in the reference presented by the applicant. In addition to this, the applicant has yet to provide any definition found in the specification to provide any limiting definition for the term "focusable". The applicant has merely pointed out the use of the term in the specification in examples, which much like the term itself are broad and non-limiting. It is due to this rather broad, non-limiting use of this term that the rejection remains proper. The basis broadest reasonable interpretation that is being used to further prosecution can be found in the definition attached as a Non-Patent Document with the Notice of References cited mailed with this Action. This definition is the only definition the examiner has been able to find using all of the searching resources available at the time of this action, thus it is very clear that the term "focusable" is in fact not a well-known term in the art and the interpretation given by the examiner based on the sole definition available is indeed proper, thus the rejection will be maintained. The examiner has pointed out way of stating the term based on elements found in the specification at the end of the new matter rejection that would allow for proper definition of the term. Although due to the broad nature of the term, that language must be found in the claims, otherwise the rejections will continue to be maintained.

16. Applicant's arguments with respect to claims 1-23 have been considered based on the newly amended independent claim, and the examiner believes that the claims overcome the prior art. However, the claims will not be considered allowable until the 35 U.S.C. 112 and 101 rejections have been overcome.

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17. Regarding the applicant's arguments on pages 23-24, regarding claims 24 and 53, the examiner maintains that the rejection is proper and the limitations of the claims are properly rejected. The applicant has continued to provide no new arguments since the claims were amended 8/30/2006. The examiner provided a new positions of rejection based on the same art in order to provide a basis for how the newly amended limitations were rejected, which provided a basis for rendering the arguments presented (which were directed only to the newly added limitations) as moot due to new grounds of rejection.

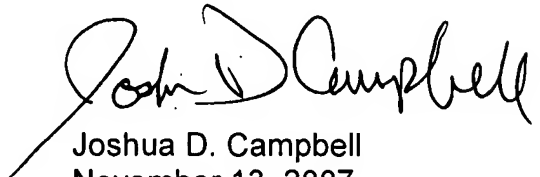
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua D. Campbell whose telephone number is (571) 272-4133. The examiner can normally be reached on M-F (7:30 AM - 4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Hong can be reached on (571) 272-4124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Joshua D. Campbell
November 13, 2007